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1 **Double Patenting**

2 Claims 1, 2, 10, 13 and 11 are rejected on the ground of nonstatutory
3 obviousness-type double patenting as being unpatentable over claims in U.S.
4 Patent No. 6,639,878.

5 Claim 12 is rejected on the ground of nonstatutory obviousness-type double
6 patenting as being unpatentable over claims in U.S. Patent No. 6,639,878 in view
7 of Official Notice.

8 Claims 3-9 are rejected on the ground of nonstatutory obviousness-type
9 double patenting as being unpatentable over claims in U.S. Patent No. 6,639,878
10 in view of U.S. Patent No. 6,563,549.

11 A terminal disclaimer in compliance with 37 CFR 1.321 is filed with this
12 response to overcome the double patenting rejection. The terminal disclaimer is
13 signed by an attorney of record.

14 Claims 13-15 are rejected Claims 13-15 are rejected under 35 U.S.C. 101 as
15 claiming the same invention as that of claims 16-27 of U.S. Patent No. 6,639,878.
16 Claims 13-15 are canceled without prejudice.

17
18 **35 U.S.C. §103**

19 Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over
20 U.S. Patent No. 6,262,777 to Brewer et al (Brewer), further considered with either
21 U.S. Patent No. 6,378,107 to Yoshinaka (Yoshinaku) or U.S. Patent No. 5,835,510
22 to Hayashi (Hayashi). Applicant respectfully traverses the rejection.

23 Brewer teaches editing audiovisual files (e.g., MPEG files). In particular,
24 Brewer teaches methods and apparatuses for maintaining an audio component of a
25 bit stream substantially synchronized with a video component after performing

1 editing operations. (Brewer, col. 1, lines 38-42). Audiovisual files
2 are substantially synchronized during editing operations performed through the use
3 of an editing engine. (Brewer, col. 3, lines 41-44)

4 Brewer teaches stitching first and second audiovisual segments together.
5 An audiovisual segment has a multiplicity of audio frames including a first audio
6 frame, a second audio frame that sequentially follows the first audio frame and a
7 last audio frame. The method taught includes the step of aligning an initial audio
8 frame in the first audiovisual segment with the first video frame in the first
9 audiovisual segment. The first audio frame from the first audiovisual segment is
10 designated as the initial audio frame when a tab error associated with the first
11 audio frame from the first audiovisual segment is less than about half a frame.
12 (Abstract of Brewer).

13 Yoshinaka teaches a digital signal reproducing apparatus that makes use of
14 a Viterbi decoder. (Abstract of Yoshinaka). In particular, Yoshinaka teaches a
15 digital signal reproducing apparatus where equalizing references of a differential
16 system and an integrating system are added in a predetermined ratio for decisions
17 of maximum likelihood. In other words, distances that are described as branch
18 metrics from respective amplitude reference values based on the equalizing
19 references of the differential system and the integrating system are added in a
20 predetermined ratio for a binary discrimination, thereby to improve the
21 discriminating accuracy degraded by noise. (Yoshinaka, col. 1, lines 13-20).

22 Hayashi also teaches the use of a Viterbi decoder which is particularly
23 taught in executing a high-speed decoding process. An error value between a
24 sample value obtained by sampling a read signal read from a recording medium
25 and each of prediction values is obtained as a branch metric value. One of the

1 branch metric values and a first path metric value are added, thereby obtaining a
2 first addition value. Another one of the branch metric values and a second path
3 metric value are added, thereby obtaining a second addition value. The first and
4 second path metric values are compared. On the basis of the comparison result,
5 one of the first and second addition values is selected and used as a first path
6 metric value. (Abstract of Hayashi).

7 **Independent claim 1**, recites “[a] method comprising:

8 reading at least a subset of audio content comprising an audio file
9 from optical media removably integrated with an optical drive; and

10 analyzing at least the read subset of audio content to quantify
11 optical drive read accuracy; and

12 generating one or more metrics of optical drive read accuracy
13 based, at least in part, on the analysis of the read subset of audio content.

14 The combination of Brewer, in further consideration with either Yoshinaka
15 or Hayashi, fails to teach or suggest the method of claim 1. The Action argues that
16 “Brewer et al discloses an optical disc information editing system for audio visual
17 data, the ability of aligning audio sectors in accordance with a determination
18 predicated upon a disclosed ‘tab error’ ... The system’s final operational
19 parameters/operational settings are appropriately control[led] by the overall
20 system desired result - i.e., aligning the audio sectors/frames accordingly. The
21 examiner interprets frames as sectors.”

22 Claim 1 recites in part “analyzing at least the read subset of audio content
23 to quantify optical drive read accuracy”. As discussed above, Brewer teaches
24 editing audiovisual files. There is no teaching or suggestion in Brewer as to, nor
25 has the Action pointed out where in Brewer teaches or suggests, analyzing audio

1 content to quantify an optical drive's read accuracy. Although Brewer may seem
2 to suggest that the medium of the audiovisual files may be from an optical medium
3 such as a compact disc, there is no teaching or suggestion as to an optical drive
4 from which the medium is read from. Since there is no specific mention as to an
5 optical driver in Brewer, it follows that there is no teaching or suggestion as to
6 analyzing the audio content in order to quantify optical driver read accuracy, as
7 recited by claim 1.

8 Claim 1 further recites "generating one or more metrics of optical drive
9 read accuracy based, at least in part, on the analysis of the read subset of audio
10 content". The Action argues that "[t]here is no clear disclosure with respect to the
11 claimed 'generating one or more metrics' as recited in claim 1. Either Yoshinaka
12 or Hayashi disclose in this environment, the ability of generating 'metrics' in their
13 disclosed decoding systems - see branch metrics calculation in Yoshinaka or the
14 Viterbi decoder in Hayashi." As discussed above, Yoshinaka teaches a Viterbi
15 decoder in a digital signal reproducing apparatus. Whatever metrics are taught in
16 Yoshinaka are directed to decode or provide for a signal. Likewise, Hayashi
17 teaches a Viterbi decoder in a decoding process; however, the metrics described in
18 Hayashi are directed to signal path values. There is no motivation in either
19 Yoshinaka or Hayashi to use the metrics that are taught for "optical drive read
20 accuracy" as recited in claim 1.

21 In view of the above, the combination of Brewer and Yoshinaka or Hayashi
22 does not teach or suggest each and every element of claim 1. Thus, claim 1 is not
23 obvious over the cited combination. Applicant respectfully requests that the §103
24 rejection of claim 1 be withdrawn.

1 **Dependent claims 2-9** are allowable at least by virtue of their dependency
2 on base claim 1. Applicant respectfully requests that the §103 rejection of claims
3 2-9 be withdrawn.

4 Claim 2 further recites “reading a block of audio content; and iteratively
5 repeating the reading step using different block sizes”. The Action argues that
6 “[w]ith respect to claim 2, the audio in Brewer et al is interpreted as an audio
7 block”. However, the Action does not address Brewer teaches or suggests the
8 element of “iteratively repeating the reading step using different block sizes” as
9 recited by claim 2.

10 In view of the above, the combination of Brewer and Yoshinaka or Hayashi
11 does not teach or suggest each and every element of claim 2. Thus, claim 2 is not
12 obvious over the cited combination. Applicant respectfully requests that the §103
13 rejection of claim 2 be withdrawn.

14 **Dependent claims 3-8** are further allowable at least by virtue of their
15 dependency on claim 2. Applicant respectfully requests that the §103 rejection of
16 claims 3-8 be withdrawn.

17 The Action further argues that “[w]ith respect to claims 11 and 13, and 15
18 the record medium in Brewer et al is interpreted as the claimed ‘machine
19 readable’, and as further required by claim 15 - an optical medium. With respect
20 to claim 12, the overall system of Brewer et al is interpreted as a ‘computer’
21 system, i.e., a storage device -- the appropriate record medium being
22 used/accessed, and the execution unit -- the processor thereto”. Claims 13-15 have
23 been canceled without prejudice. Applicant respectfully traverses the rejection as
24 to claims 11 and 12.

1 **Dependent claims 11 and 12** are allowable at least by virtue of their
2 dependency on base claim 1. Applicant respectfully requests that the §103
3 rejection of claims 11 and 12 be withdrawn.

4
5 Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the
6 art as applied to claim 1 and further in view of U.S. Patent No. 6,563,549 to
7 Sethuraman (Sethuraman). Applicant respectfully traverses the rejection.

8 **Dependent claims 10** is allowable at least by virtue of its dependency on
9 base claim 1. Applicant presents the arguments made above, in support of claim
10 in support of claim 10. Sethuraman is cited for teaching Huffman
11 coding/decoding; however, Sethuraman provides no assistance in light of Brewer
12 and Yoshinaka or Hayashi as to the method of claim 10. Sethuraman does not
13 teach or suggest the elements of claim 10 and does not help.

14 Accordingly, a combination of Brewer and Yoshinaka or Hayashi, and
15 Sethuraman is improper. Accordingly, Applicant respectfully requests that the
16 §103 rejection of claim 10 be withdrawn.

17
18 Claims 1 and 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being
19 unpatentable over U.S. Patent No. 6,278,784 to Ledermann et al (Ledermann),
20 further considered with either Yoshinaka or Hayashi. Claims 13 and 15 have been
21 canceled without prejudice. Applicant respectfully traverses the rejection as to
22 claims 1, 11, and 12.

23 As discussed above, there is no motivation in either Yoshinaka or Hayashi
24 to use the metrics that are taught for “optical drive read accuracy” as recited in
25 claim 1.

1 In view of the above, the combination of Ledermann and Yoshinaka or
2 Hayashi does not teach or suggest each and every element of claim 1. Thus, claim
3 1 is not obvious over the cited combination. Applicant respectfully requests that
4 the §103 rejection of claim 1 be withdrawn.

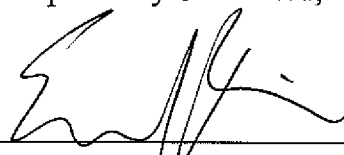
5 **Dependent claims 11 and 12** are allowable at least by virtue of their
6 dependency on base claim 1. Applicant respectfully requests that the §103
7 rejection of claims 11 and 12 be withdrawn.

1 **CONCLUSION**

2 All pending claims 1-12 are in condition for allowance. Applicant
3 respectfully requests reconsideration and prompt issuance of the subject
4 application. If any issues remain that prevent issuance of this application, the
5 Examiner is urged to contact the undersigned attorney before issuing a subsequent
6 Action.

7
8 Respectfully Submitted,

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10 Dated: 4/26/06

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